

REMARKS**Status of the Claims**

Claims 1, 3-11, 13-21, and 23-30 are currently present in the Application, and claims 1, 11, and 21 are independent claims. Claims 1, 11, 21, and 23-27 have been amended, and no claims have been canceled or added in this Amendment. Note that claims 21 and 23-27 have been amended to remove “means plus function” limitations.

Applicants are not conceding in this Application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the allowable subject matter noted by the Examiner. In particular, in Applicants’ Preliminary Amendment filed March 2, 2007, Applicants amended independent claims 1, 11, and 21 to include limitations previously found in dependent claims 2, 12, and 22, and canceled claims 2, 12, and 22. Applicants respectfully reserve the right to pursue these and other claims in one or more continuation and/or divisional patent applications.

Drawings

Applicants note with appreciation that the Examiner has accepted Applicants’ formal drawings that were submitted with the original application.

Specification Objections

The Office Action notes that, although permissible, Applicants specification includes the use of the trademark “JAVA”. As suggested by the Examiner, Applicants have amended the specification capitalizing the trademark and noting that the term “JAVA” is a trademark (e.g., JAVA™). Accordingly, Applicants respectfully request that the Examiner withdraw the objection to the specification. Further, as requested by the Examiner, Applicants have reviewed the somewhat lengthy specification and have

found no further uses of the JAVA™ trademark nor other amendments or corrections needed to the specification.

Claim Objections Under 35 U.S.C. § 112

Claims 1, 11, and 21 were rejected under 35 U.S.C. § 112 as allegedly being unclear and indefinite to particularly identify the subject matter which applicants regard as their invention. In particular, these claims include a limitation substantially reading “receiving a request...” and the Office Action avers that it is unclear as to the type of request that is being received. Applicants have amended each of the independent claims to clarify that the request is a “resource request.” As shown in the “assigning...” limitation, the resources that are responsively assigned are second processor types and a shared memory which are all assigned to a group. Accordingly, in light of Applicants’ clarifying amendment, Applicants respectfully request that the rejection of claims 1, 11, and 21 under 35 U.S.C. § 112 be withdrawn.

Claim Objections Under 35 U.S.C. § 101

Claims 1, 3-11, 13-21, and 23-30 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicants note with appreciation the brief telephone conversation between Applicants’ attorney, Examiner Kawsar and an unnamed examiner on September 6, 2007. During this conversation, the examiners pointed out that the § 101 rejection was based on the claim preambles allegedly not coinciding with the claimed limitations. Applicants have amended the preambles so that they better conform to the claim limitations in each of the independent claims. In addition, Applicants amended the “processing...” limitation to be an “executing...” step to further clarify the claimed subject matter and ensure that the claims are directed to statutory subject matter allowable under 35 U.S.C. § 101. In light of Applicants’ amendments, Applicants respectfully request that the rejections under § 101 be withdrawn, and, in light of Applicants’ traversal of the § 103 rejections set forth below, that Applicants’ claims proceed to an expedited allowance.

Claim Rejections – Alleged Obviousness Under 35 U.S.C. § 103

Claims 1, 3,-6, 8-11, 13-16, 18-21, 23-26, and 28-30 stand rejected under 35 U.S.C. § 103 as allegedly being obvious, and therefore unpatentable, over U.S. Patent No. 6,981,072 to Day et. al. (hereinafter “Day”) in view of U.S. Patent No. 5,307,495 to Seino et al. (hereinafter “Seino”). Claims 7, 17, and 27 stand rejected over Day in view of Seino in further view of U.S. Patent No. 5,630,128 to Ferrell et al. (hereinafter “Ferrell”). Applicants respectfully traverse the rejections.

Day was filed June 5, 2003 and issued on December 27, 2005. The instant application has a priority filing date of September 25, 2003. Therefore, the Day application qualifies as prior art only under 35 U.S.C. § 102(e). In addition, the instant application and the Day application were commonly owned or subject to an obligation of assignment to the same person at the time the invention was made, namely the International Business Machines Corporation. 35 U.S.C. § 103(c) states:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Therefore, pursuant to 35 U.S.C. § 103(c), the Day application cannot be used in a 35 U.S.C. § 103 rejection to preclude patentability. As such, the 103 rejections to claims 1, 3,-6, 7-11, 13-16, 17-21, 23-26, and 27-30 using Day are improper and must be withdrawn. Consequently, as Day was the primary reference used in rejecting each of Applicants’ claims, the remaining references of Seino and Seino in view of Ferrell, alone or in combination with one another simply do not teach or suggest each of Applicants’ claimed limitation and, indeed, the Office Action makes no such assertion. Accordingly, Applicants respectfully aver that claims 1, 3,-6, 7-11, 13-16, 17-21, 23-26, and 27-30 are allowable, as described above, and that these claims be allowed in the next Office Communication.

Conclusion

As a result of the foregoing, it is asserted by Applicants that the remaining claims in the Application are in condition for allowance, and Applicants respectfully request an early allowance of such claims.

Applicants respectfully request that the Examiner contact the Applicants' attorney listed below if the Examiner believes that such a discussion would be helpful in resolving any remaining questions or issues related to this Application.

Respectfully submitted,

By /Joseph T. Van Leeuwen, Reg. No. 44,383/
Joseph T. Van Leeuwen, Reg. No. 44,383
Van Leeuwen & Van Leeuwen
Attorneys for Applicant
Telephone: (512) 301-6738
Facsimile: (512) 301-6742